

7.0 CEQA REQUIRED CONSIDERATIONS

As required by the California Environmental Quality Act (CEQA), this chapter provides a discussion of effects not found to be significant, unavoidable significant impacts, significant irreversible environmental changes, and impacts related to growth inducement. The focus of this chapter is on the environmental effects of construction and operation of the development of the project area and the resulting growth potentially generated by the project.

Text in reference to the borrow site has been removed with the incorporation of the project applicant's new mitigation measure eliminating the borrow of 300,000 cubic yards of soil southwest of Ardenwood Boulevard, as described in **Chapter 3, Project Description**.

7.1 EFFECTS NOT FOUND TO BE SIGNIFICANT

CEQA requires a brief discussion of the potential effects of a project that have been determined not to be significant and, therefore, not evaluated in detail in the Environmental Impact Report (EIR). This ~~Recirculated Draft~~ Final EIR provides an analysis of all environmental issue areas listed in Appendix G of the CEQA Guidelines. **Chapter 4** identifies issues found not to be significant, which is also summarized below.

Aesthetics

Glare

The exterior walls and windows of the residential homes and future religious facilities are not expected to introduce new sources of daytime glare, as none of the structures are over two stories high or are expected to include glass curtain walls or other features that may be a source of substantial glare. Other new sources of daytime glare from the project area would be associated with the additional automobiles of the future project occupants. However, the glare from these sources would be minimal, and would be comparable to the existing sources of glare from the adjacent residential development. No further discussion is necessary.

Agricultural Resources

Conflict with a Williamson Act contract

The project proposes to donate land to a public agency, including the 68 acres of land under Williamson Act Contract. At the time that the project proponents donate the open space to public agencies, they will comply with required land uses considered to be compatible under the existing Williamson Act contract (i.e., open space) and the procedures required to transfer the property to a public agency. Therefore, the project is not expected to conflict with the existing Williamson Act contract, and no impact would occur.

Result in the Loss of Forest Land

The vast majority of the project area contains fields formerly used for agriculture that are disked at least once every year. The project area is dominated by grassland with scattered mature trees and shrubs surrounding the property. No forest land exists on or around the project area. Implementation of the proposed improvements would therefore not result in the loss of forest resources. No impact would occur.

Air Quality

Community Risk

The BAAQMD CEQA Air Quality Guidelines describe the potential for significant community risk impacts to occur when sensitive receptors are located near sources of TAC and/or PM_{2.5} emissions. Common sources include high-volume roadways such as freeways, stationary combustions sources permitted by BAAQMD, and gasoline stations. BAAQMD recommends that these types of sources within 1,000 feet of a project with sensitive receptors be assessed to evaluate potential impacts. These types of TAC or PM_{2.5} emission sources have not been identified within 1,000 feet of the site. Therefore, this issue is not discussed further in this ~~Recirculated Draft~~ Final EIR.

Biological Resources

Habitat Conservation Plan

The project area is not subject to a Habitat Conservation Plan (HCP), Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan. Therefore, because the project would not conflict with such a plan, no further discussion is necessary.

Special-Status Plant Species

No special-status plant species were observed on the project area during focused surveys conducted by H.T. Harvey & Associates during the summer and fall of 2000, and the spring and summer of 2001, or during additional searches for special-status plant species in the winter and spring of 2001, 2002, 2003, and 2004. Additionally, the project area has been subject to ongoing disturbances from disking and agricultural activities, and with the exception of Patterson Slough and the flood control channels, is dominated by ruderal plant species. Given that special-status plant species have not been observed during focused surveys and the disturbed condition and low botanical value of the majority of the project area (including all areas proposed for development and use as borrow sites), no special-status plant species are expected to occur and no further discussion is required.

Hazards and Hazardous Materials

Interfere with an Airport Land Use Plan

The project area is not located in an airport land use plan or in the vicinity of a public or private airport and therefore would not create impacts associated with airplane traffic.

Alter Emergency Response Plan or Evacuation Route

The project area is not located on or near an emergency evacuation route, nor would project traffic be expected to adversely impact a designated evacuation route. Thus, the project would not impede implementation of the Fremont Emergency Plan. The project would also not involve the establishment of an evacuation route. As such, the project would not alter an existing emergency response plan or evacuation route and therefore would not impact existing emergency procedures. Emergency response to the project area for future project residents is addressed in **Section 4.6, Emergency Services**.

Create a Significant Hazard to the Public or the Environment due to Location on a Cortese Site (Government Code Section 65962.5)

The project area is not located on or near a site listed in federal or state databases of major hazardous release sites (e.g. Superfund sites), pursuant to Government Code Section 65962.5.

Use, Disposal, or Upset Conditions resulting in Exposure to Hazardous Materials

The development of the project area includes a large residential development with neighborhood parks, future religious facilities and open space. No hazardous materials would be stored in the project area in support of the project, other than typical consumer-related products, such as cleaning solvents. Most of these materials would be consumed during use. The limited amounts of hazardous materials would also be labeled to inform users of potential risks and to instruct them in appropriate handling, storage, and disposal procedures. None of these uses are associated with the routine transport of substantial quantities of hazardous materials that could spill and create a significant hazard to the public or the environment.

Emit Hazards That Would Affect Nearby Schools

The project area is not within 0.25-mile of an existing school site. The closest school to the project area is the Ardenwood Elementary School, located 0.5-mile from the project area. Furthermore, residential uses that would be developed as part of the project would not entail the routine use, transport, or disposal of hazardous materials as part of its operations. Thus, project operation would not affect nearby schools.

Hydrology and Water Quality

Inundation by Seiche, Tsunami, or Mudflow

According to tsunami evacuation zone maps published by the Association of Bay Area Governments (ABAG), the project area would not be subject to inundation by tsunami. It is not located adjacent to any large body of fresh water that could be expected to overtop its banks during an earthquake, so it is not subject to inundation due to seiche. The project area is nearly flat and would not be subject to mudflows.

Depletion of Groundwater Table

The proposed project is not proposing to drill new water wells or directly access groundwater in the project area. Groundwater is a source of potable water and the availability and provision of groundwater to the project is discussed in **Section 4.15, Public Utilities and Energy**.

According to the ACWD's Urban Water Management Plan (UWMP), the ACWD has 150,000 af of storage capacity reserved at Semitropic, with over 115,000 af currently in storage. The purchase of an additional 300 af/yr would be extracted

from an existing storage of groundwater and would not require additional extraction from the groundwater table. Furthermore, in 1989 ACWD adopted a Groundwater Management Policy to protect and manage the Niles Cone Groundwater Basin. This Groundwater Management Policy was last updated in 2001, and effectively serves as ACWD's groundwater management plan for the Niles Cone Groundwater Basin. The intent of this policy is to protect and manage the groundwater basin to ensure reliable high quality water and supply to serve existing and future water needs in the area. Therefore, the project would not directly deplete groundwater resources to the extent that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level.

Land Use and Planning

Physically Divide an Established Community

Since the project area is currently undeveloped, the proposed development would not divide an established community. No alternations to Ardenwood Boulevard are proposed that would impede or obstruct travel on this street. The project would link to the existing residential uses along its northern borders. Furthermore, the project proposes to a trail connection to the Bay Trail. The proposed development would therefore enhance the connectivity among the various uses in the project vicinity rather than dividing an established community.

Conflict with Habitat Conservation Plan or Natural Community Conservation Plan

The project area is not covered by a Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan. Therefore, the project would not be subject to such a plan, and no further discussion is necessary.

Noise and Vibration

Exposure to Noise from a Public Airport

The project is not in the immediate vicinity of a public airport and would therefore not be exposed to high noise levels from this source. Therefore, there would be no exposure to noise from a public airport.

Exposure to Noise from a Private Airport

The project area is not in the vicinity of a private airstrip would therefore not be exposed to excessive noise levels from private aircraft. Therefore, there would be no exposure to noise from a private airport.

Recreational Facilities

The project (under ~~scenario~~ Scenario 1 and ~~scenario~~ Scenario 2) does not include plans for the construction of public recreational facilities or require the construction or expansion of recreational facilities off site. While substantial land would be dedicated for public open space, no plans have been developed for the use of that area. At the time any public recreational facilities are proposed in those areas, environmental review will be completed. Therefore, this issue is not discussed further.

The impacts of the construction of the 14 acres of private parks (under ~~scenario~~ Scenario 1 and ~~scenario~~ Scenario 2) within site 1 are discussed in other topical sections in this ~~Recirculated Draft~~ Final EIR.

Population and Housing

Displace Substantial Numbers of Existing Houses

The project would not involve the demolition of any existing housing. As a result, the project would not result in the displacement of existing housing and no replacement housing would be required.

Displace Substantial Numbers of People

The project would not result in the displacement of existing housing; therefore, no individuals would be displaced or in need of replacement housing as a result of the project.

Public Utilities and Energy

Wastewater Treatment Requirements

Wastewater generated by the project would originate from residential sources and no industrial wastewater would be generated by the project. New sewer lines would be constructed onsite to accommodate the project-generated flows, which would be typical of residential areas, and no changes to the wastewater treatment plant would be required to treat these flows. Consequently, no impacts related to Regional Water Quality Control Board's wastewater treatment requirements for the regional wastewater treatment plant would be expected. Therefore, this issue is not discussed further in this section.

Telecommunication Lines

Highly regulated private companies provide telecommunication systems within Fremont. Fremont's Municipal Code regulates the provision and service standards of these telecommunication services and zoning regulations mandate the installation of new telecommunication systems (including telephone lines). No deficiencies in telecommunications service in the vicinity of the project, or that would be caused by the project, have been identified by the telecommunication companies.

Construction of a New USD Pump Station

The project sponsors intend to donate a 1-acre parcel of land for the future construction of a new USD pump station. The proposed location of the pump station is at the southwest corner of the intersection of Ardenwood Boulevard and the Alameda Creek Flood Control Channel. The need for the pump station is not related to this project and will be constructed separately by USD, hence it is not included as part of this ~~Recirculated Draft~~ Final EIR. The pump station is scheduled for construction between 2012 and 2013.

Access to ACWD and USD Facilities

ACWD currently uses the Alameda County Regional Trail and Patterson Ranch Road to access a number of ACWD monitoring wells, located west of the project area. Implementation of the project would not obstruct or block the regional trail or Patterson Road and therefore maintain access to ACWD's facilities. The project would also include USD access to the pump station through the 10-acre religious facilities site.

Types of Solid Waste

The project consists of residential land uses that would not result in the generation of unique types of solid waste that would conflict with existing regulations applicable to solid waste disposal. The project would be required to comply with Fremont's solid waste disposal requirements; including recycling or special materials disposal programs to comply with the provisions of AB 939 and Measure D (see **Impact PU-4** for more detail regarding this topic). This issue is not discussed further in this section.

Transportation and Circulation

Effects to Air Traffic Patterns

The nearest airport to the project area is the Palo Alto Airport in Santa Clara County, which is located approximately 7 miles southwest of the project area, across the San Francisco Bay. Two other airports in the region are the Oakland International Airport, approximately 13 miles northwest of the project, and the San Jose International Airport, approximately 16 miles south of the project. Because the project is not in the immediate vicinity of these airports, it is not likely to cause a change in air traffic patterns, or increase traffic levels such that they would affect the operations of these facilities or result in any airport safety risks.

Design Hazards and Emergency Access

The initial project plans were reviewed by the fire and police departments to evaluate public safety issues that could occur at project area intersections, the proposed vehicular bridges and paths. Their comments on street widths, turning radii, and emergency access were incorporated into the project plans under consideration in this ~~Recirculated Draft~~ Final EIR. Therefore, the project has been designed to minimize hazardous intersection geometry, emergency access constraints, and other features that could result in unsafe conditions for people in the project area. The project would provide a network of bicycle and pedestrian paths to further reduce potential conflicts between automobiles, bicyclists and pedestrians.

Emergency vehicles would be able to access different areas throughout the project area using internal roads. A secondary emergency vehicle access road would be provided at the northern tip of the project to provide access to neighborhood cluster 7. Emergency vehicles would access neighborhood cluster 7 via an existing all weather paved surface on the north side of Crandall Creek (K-line channel).

Therefore, no impacts related to design hazards or emergency access constraints are anticipated.

Major Roadways/Arterials

As discussed in **Section 4.17 Transportation and Circulation**, the ACCMA requires the evaluation and assessment of regional roadways within the study area that are designated as CMP and MTS facilities. Based on the roadway segment analysis, the addition of the project traffic would change the v/c ratios on arterials in the project vicinity but would not result in unacceptable service levels as defined by ACCMA

LOS criteria (see **Table 4.17-8, ACCMA Arterial LOS Levels**). Additional information on v/c increases is available in Appendix F of the TIA, which is included as **Appendix J** to this ~~Recirculated Draft~~Final EIR.

Unsignalized Intersections

Fremont does not have established thresholds or significance criteria for determining impacts at unsignalized intersections. Comparative AM and PM peak period LOS ratings for unsignalized intersections are summarized in **Table 4.17-9 LOS Comparison for Unsignalized Intersections**. During the PM peak period the level of vehicle delay at the Ardenwood Boulevard/Tan Oak Drive intersection, which is already operating at LOS F, would substantially increase (from 290.2 to 459.5). A common measure to evaluate the performance of an unsignalized intersection is a traffic signal warrant, which is used to determine if the increased volume of traffic generated by a project at an unsignalized intersection could require a traffic signal to improve intersection traffic operations. Following a traffic signal warrant analysis, the 2009 Draft EIR identified Ardenwood/Tan Oak Drive as an intersection which could benefit from the addition of a traffic signal. However, the 2010 TIA conducted a signal warrant analysis and determined that, due to the project's reduced population size, a traffic signal would no longer be warranted at the intersection (refer to **Appendix J** of this ~~Recirculated Draft~~Final EIR). Therefore, this issue is not discussed further.

7.2 SIGNIFICANT UNAVOIDABLE IMPACTS

CEQA Section 15126.2(b) requires that an EIR disclose all significant impacts including those that cannot be mitigated to a less-than-significant level, where no feasible mitigation measures exist to further reduce these impacts. Throughout this ~~Recirculated Draft~~Final EIR, mitigation measures have been identified that would reduce the majority of the potential environmental impacts of the project to less-than-significant levels. Several impacts related to the project cannot be mitigated to a less-than-significant level and are considered significant and unavoidable.

CEQA Section 15092 prohibits lead agencies from approving a project unless the agency has "eliminated or substantially lessened all significant effects on the environment where feasible." Recent California Supreme Court case law has affirmed that lead agencies have a duty to mitigate significant environmental impacts to the extent possible when mitigations are feasible, even if the mitigations will not reduce impacts to a less-than-significant level and the agency intends to adopt a Statement of Overriding Considerations.

Chapter 4, Setting, Impacts and Mitigation provides a full discussion of all potential environmental impacts of the project. According to the evaluation of all the topical sections in this ~~Recirculated Draft~~ Final EIR, the project would result in significant and unavoidable impacts related to agricultural resources, air quality, mineral resources, flood hazard associated with long-term sea level rise, and traffic and transportation. Please refer to **Chapter 4** for a discussion regarding these significant and unavoidable impacts.

7.3 SIGNIFICANT IRREVERSIBLE CHANGES

CEQA Section 15126.2(c) requires that an EIR discuss any environmental changes that would be irreversible if the project were implemented. CEQA defines irreversible environmental changes as either irretrievable commitment of resources and/or irreversible damage resulting from environmental accidents. Irreversible changes may include current or future uses of non-renewable resources, and secondary or growth inducing impacts that commit future generations to similar uses. The CEQA Guidelines describe three distinct categories of significant irreversible changes, including changes in land use that would commit future generations; irreversible changes from environmental actions; and consumption of non-renewable resources.

7.3.1 CHANGES IN LAND USE WHICH WOULD COMMIT FUTURE GENERATIONS

As the project area is currently undeveloped open space, implementation of the project would result in the urban development of a portion of the project area. Project development would result in an irreversible commitment of existing open space areas to development. The project would develop approximately 111 acres (26 percent) of the project area, while the remaining 316 acres (74 percent) is proposed for donation to a public agency as open space. The open space donation is voluntary and offered exclusive of the development project. As it is unlikely that the 111 acres would be converted back to open space in the future, implementation of the project would commit future generations to an urbanized landscape in this portion of the project area.

7.3.2 IRREVERSIBLE CHANGES FROM ENVIRONMENTAL ACTIONS

The project would involve the construction of new residential and service uses in Fremont. Non-renewable resources such as fossil fuels would be required for construction and operation of the project. The change in use from open space to urban development and the associated commitment of non-renewable resources necessary for construction and operation of the project would be irreversible.

7.3.3 CONSUMPTION OF NONRENEWABLE RESOURCES

Consumption of nonrenewable resources includes energy consumption, conversion of agricultural lands, and the loss of mineral resources. The project would result in the consumption of some nonrenewable resources during construction and operation, such as electricity, natural gas and petroleum products, and construction materials. There are designated mineral resources in the project area in the form of subsurface gravel. These mineral resources would become irretrievable with project implementation because the development of buildings over large portions of area and the conservation of the open space in the remainder would prevent future extraction. Refer to **Section 4.7, Geology, Soils, and Mineral Resources**, for a discussion of impacts to mineral resources in the project area.

7.4 GROWTH INDUCEMENT

CEQA requires a discussion of the ways in which a project could be growth inducing. The CEQA Guidelines Section 15126.2(d) identify a project as growth inducing if it would foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment. For example, new population from residential development represents a direct form of growth. A project could also indirectly induce growth by attracting additional population or new economic activity to an area.

- According to the CEQA Guidelines, the project would have potential to induce growth if it would:
- Directly encourage population growth, through the construction of additional housing in the surrounding environment.
- Result in the economic expansion either through the addition of substantial commercial space or by providing longer-term jobs (including construction) that could induce people to move to the area.

- Remove obstacles to growth, such as by building a road in a formerly inaccessible area, or through the provision of infrastructure or service capacity that would accommodate population growth beyond the levels currently anticipated by local or regional plans and policies.
- Increase population such that existing community facilities and services are inadequate and the expansion of existing facilities or the construction of new facilities is required.
- Through a precedent-setting action, such as a General Plan Amendment or removal of a restrictive zoning requirement such that growth would be permitted in new areas or at a higher density than previously planned for.
- In general, a project could be considered growth inducing if it directly or indirectly affects the ability of agencies to provide needed public service, or if it can be demonstrated that the potential growth significantly affects the environment in some other way. However, the CEQA Guidelines do not require a prediction or speculation of where, when, and in what form such growth would occur.

According to the CEQA Guidelines, it must not be assumed that growth in any area is necessarily detrimental, beneficial, or of no significance to the environment. CEQA does not require separate mitigation for growth inducement as it is assumed that these impacts are already captured in the analysis of environmental impacts (**Chapter 4** of this ~~Recirculated Draft~~ Final EIR).

7.4.1 ECONOMIC, POPULATION, AND HOUSING GROWTH

Typically, the growth inducing potential of a project is considered significant if it fosters growth or a concentration of population in a different location or in excess of what is assumed in pertinent general plans or land use plans, or projections made by regional planning agencies, such as the Association of Bay Area Governments (ABAG). **Section 4.14, Population and Housing**, addresses the direct population growth as a result of the residential development in the project area. Scenario 2 of the project includes the construction of 520 units (including 72 apartments), which would house approximately 1,560 residents. The new population created by the project would constitute approximately 6.5 percent (6.3 percent for Scenario 1) of the total population growth anticipated by ABAG in Fremont from 2010 to 2030. The 520 units proposed by the project would represent approximately 4.4 percent of the projected household growth over the same period. While the project would

not constitute a significant environmental impact as the population growth would be within the growth projections, the project would be growth inducing through its introduction of a new population to the project area.

Additionally, the Fremont General Plan identifies the project area for future urban development, as the area is designated as Open Space-Urban Reserve within the Northern Plain Planning Area. The property is also designated a Study Area. Since the General Plan has designated the project area as an Urban Reserve, growth would be occurring in an area previously planned for some type of development. For further discussion of the Open Space-Urban Reserve, refer to **Section 4.11, Land Use and Planning**.

Construction of the project would result in a short-term increase in construction related job opportunities within Fremont. However, construction workers can be expected to be drawn from the existing construction employment labor force, as construction of new residential development occurs throughout Fremont and within surrounding cities. Therefore, opportunities provided by construction of the project area would not likely result in the relocation of construction workers to the project region. Therefore, the employment opportunities provided by construction are not anticipated to induce indirect growth in the region.

7.4.2 REMOVE OBSTACLES TO GROWTH OR EXCEED CAPACITY OF COMMUNITY FACILITIES

The project area is currently accessible from two major thoroughfares in Fremont: Paseo Padre Parkway and Ardenwood Boulevard. The Alameda Creek Regional Trail, which runs along the northwestern boundary of the project area, also provides pedestrian and bicycle access. While the project would develop an internal street network for the residential neighborhoods, these project components would not open access to a previously inaccessible area of Fremont. The project would therefore not be considered growth inducing with respect to access.

The project would also not remove an obstacle to growth through the development of public services or facilities. While the project involves the implementation of an on-site drainage system to collect and treat stormwater runoff, the on-site drainage system would not expand stormwater capacity beyond levels created by project development. This on-site facility would not have the capacity to serve, or enable, new development outside of the project area. Development of the project area would also be accommodated by the existing public services following

implementation of the identified mitigation in **Section 4.6, Emergency Services**. Thus, the project would not be considered growth inducing in terms of introducing new facilities that would remove an obstacle to growth.

As the project area is surrounded by urban development, existing utility lines are located within close proximity to the project area. The new development would connect to existing water, wastewater, gas, communications, and electrical lines that run into the project area or along the project area boundary. While infrastructure improvements would occur within the project area, the Alameda County Water District would not have sufficient water supplies available to meet the projected demands in their service area during consecutive critically dry years with project development. As discussed in **Section 4.15, Public Utilities and Energy**, the project would be required to acquire additional water recovery capacity of dry year supplies from the Semitropic Groundwater Banking Program. Thus, the project would be growth inducing in regards to increasing population such that existing water facilities would be inadequate to accommodate project development which would require additional supplies.

7.4.3 PRECEDENT-SETTING ACTION

Development of the project area would include both a General Plan Amendment and the rezoning of portions of the project area. The project would include a General Plan Amendment to change the land use designation on site 1 from Open Space-Urban Reserve to Low Density Residential. Areas designated Institutional Open Space, Private Open Space, and a portion of the area designated Open Space would retain the open space designation.

The project would include the rezoning of the project area from Agricultural to Precise Planned District to allow for up to 520 homes and approximately 14 acres of parks, greenway, and trails. By its nature, the Planned District classification would be the plan for the development of the project area, for which the project would be consistent. Therefore, the project would be growth inducing in respect to the changes in land use and zoning as development would be permitted, thus, promoting urban growth in the area.